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# A Socio-Legal History of the Coalition of Immokalee Workers

MANOJ DIAS-ABEY

*“How was a grassroots organization with a limited budget, based in a poor backwater in South Florida, whose members could barely afford dietary basics, going to convince corporate executives in suburban Los Angeles to forgo profits by volunteering to pay a penny per pound more for the tomatoes that went into their salsa and salads?”<sup>1</sup>*

## I. INTRODUCTION

The Coalition of Immokalee Workers (CIW) is part of a growing body of labour organizations<sup>2</sup> in the United States that have abandoned a broken labour law system, and instead, engage in forms of social movement activity— public communication, alliance building, and political mobilization—to make gains for workers. The most visible of these organizations are worker centres, which now number over 200 across the country,<sup>3</sup> but there are several other types of non-traditional labour organizations as well. Traditional unions are also engaging with these strategies; “social movement unionism” and “community unionism” are often presented as paths to union revitalization.<sup>4</sup> There is, however, something qualitatively different between unions that are beneficiaries of the “New Deal” era legal reforms,<sup>5</sup> and non-traditional labour organizations that are often animated by the absence of these protections. Moreover, these organizations seek to serve and organize those that the New Deal compact intentionally left out: African-Americans and racialized workers.<sup>6</sup> Currently, there is no widely accepted way of studying these organizations and their successes and failures. Some favour using traditional economic analysis to assess their impact,<sup>7</sup> while others stress the sociological aspects of these organizations’ work.<sup>8</sup> Other scholars prefer to examine the work of these organizations through

<sup>1</sup> B Estabrook, *Tomatoland: How Modern Industrial Agriculture Destroyed Our Most Alluring Fruit* (Kansas City, Andrew McMeel Publishing, 2011) 111.

<sup>2</sup> Although the CIW does not identify as a labour organization—it refers to itself as a human rights organization—it is analytically useful to categorize it as such because organizations like the CIW point a way forward for the labour movement. However, it is not a “labor organization” for the purposes of the National Labor Relations Act, 1935 or the Labor Management Reporting and Disclosure Act, 1959.

<sup>3</sup> JR Fine, ‘New Forms to Settle Old Scores: Updating the Worker Centre Story in the United States’ (2011) 66 *Relations industrielles/ Industrial Relations* 604.

<sup>4</sup> See, eg, JF McAlevey, *No Shortcuts: Organizing for Power in the New Gilded Age* (Oxford, Oxford University Press, 2016); A Tattersall, *Power in Coalitions: Strategies for Strong Unions and Social Change* (Ithaca, ILR Press, 2010); K Voss and R Sherman, ‘Breaking the Iron Law of Oligarchy: Union Revitalization in the American Labor Movement’ (2000) 106 *American Journal of Sociology* 303.

<sup>5</sup> See, eg, CL Tomlins, *The State and Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960* (Cambridge, Cambridge University Press, 1985).

<sup>6</sup> See, eg, P Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton, Princeton University Press, 2007).

<sup>7</sup> See, eg, KA Elliott and RB Freeman, ‘White Hats or Don Quixotes? Human Rights Vigilantes in the Global Economy’ in RB Freeman, J Hersch and L Mishel, eds, *Emerging Labor Market Institutions for the Twenty-First Century* (Chicago, The University of Chicago Press, 2005) 47.

<sup>8</sup> See, eg, CF Rosado Marzán, ‘Worker Centers and the Moral Economy: Disrupting Through Brokerage, Prestige, and Moral Framing’ (2018) *University of Chicago Legal Forum* Art 16.

analytical paradigms rooted in governance and regulatory studies.<sup>9</sup> Some of the most insightful writing on this new face of the labour movement takes a case study approach, which provides rich detail of their various functions.<sup>10</sup>

The CIW is not a traditional labour organization because it does not bargain with employers on behalf of its members and it rarely attempts to partner with government agencies to encourage them to enforce statutory labour standards. Instead, the CIW has developed a private regulatory system, called the Fair Food Program (FFP), which governs labour conditions on tomato farms in Florida. By enlisting large corporate entities that purchase tomatoes from Florida—mainly fast food chains and supermarkets—to obtain their tomatoes from growers complying with a series of labour standards set out in a private code of conduct (Code of Conduct), the CIW has leveraged the enormous buying power of entities at the top of the supply chain. The CIW was able to pressure these entities to join the FFP by banding together with sympathetic allies and applying social movement pressure to its targets. Pursuing similar tactics to the United Farm Workers in the 1960s and 1970s, this pressure came in multiple forms, including organizing protest marches, initiating consumer boycotts, demanding the closure of outlets on university campuses, and proposing shareholder resolutions designed to embarrass management. Farm workers had input in drafting the provisions in the Code of Conduct, and as a result, the Code comprehensively regulates conditions such as wages, sexual harassment, and occupational health and safety. Most importantly, the FFP requires buyers to pay 1 penny more per pound for all tomatoes purchased,<sup>11</sup> resulting in a 20-35% wage increase for farm workers.<sup>12</sup> Tomato growers have been motivated to join the FFP so that they can continue selling their produce to the large corporate buyers that are FFP members. In practice, the FFP has proven to be effective because it maintains a strong focus on worker education, provides an avenue for workers to complain without fear of reprisal, contains a thorough auditing mechanism performed by an institution independent from growers, and applies meaningful sanctions on employers that are non-compliant.<sup>13</sup>

The CIW has received a string of accolades that recognize its success in transforming the working conditions of farm workers on Florida's tomato fields. These include a Global Citizen Award from the Clinton Global Initiative in 2014, a Presidential Medal in 2015, and most recently in 2017, a MacArthur "Genius" Fellowship for one of its founders, Greg Asbed. The CIW started in 1993 as a loose collective of farm workers and advocates who came together with the aim of ending the deteriorating labour

<sup>9</sup> See, eg, M Amengual and J Fine, 'Co-enforcing Labor Standards: The Unique Contribution of State and Worker Organizations in Argentina and the United States' (2017) 11 *Regulation & Governance* 129; C Estlund, *Regoverning the Workplace: From Self-Regulation to Co-Regulation* (New Haven, Yale University Press, 2010).

<sup>10</sup> R Milkman and E Ott, eds, *New Labor and New York: Precarious Workers and the New Labor Movement* (Ithaca, ILR Press, 2014); R Milkman, J Bloom, and V Harro, eds, *Working for Justice: The L.A. Model of Organizing and Advocacy* (Ithaca, ILR Press, 2010); J Fine, *Worker Centres: Organizing Communities at the Edge of a Dream* (Ithaca, ILR Press, 2006).

<sup>11</sup> Although "one penny more" is the catch cry with which the CIW is most commonly associated, in actual fact, the FFP requires growers to pay differing premiums for different types of tomatoes—the premiums range from 1 cent to 4.6 cents more per pound of tomato depending on the type of tomato—Interview with S Hitov, General Counsel, Coalition of the Immokalee Workers, Washington DC (12 February 2018).

<sup>12</sup> S Greenhouse, 'In Florida Tomato Fields, a Penny Buys Progress', *New York Times* (New York 24 April 2014), [www.nytimes.com/2014/04/25/business/in-florida-tomato-fields-a-penny-buys-progress.html](http://www.nytimes.com/2014/04/25/business/in-florida-tomato-fields-a-penny-buys-progress.html).

<sup>13</sup> See, eg, M Dias-Abey, 'Justice on our Fields: Can 'Alt-Labor' Organizations Improve Migrant Farm Workers' Conditions' (2018) 53 *Harvard Civil Rights-Civil Liberties Law Review* 167; G Asbed and S Hitov, 'Preventing Forced Labor in Corporate Supply Chains: The Fair Food Program and Worker-Driven Social Responsibility' (2017) 52 *Wake Forest Law Review* 497; J Brudney, 'Decent Labour Standards in Corporate Supply Chains: The Immokalee Workers Model' in J Howe and R Owens, eds, *Temporary Labour Migration in the Global Era: The Regulatory Challenge* (Oxford, Hart Publishing, 2016) 351.

conditions of farm workers in Immokalee, Florida. It initially had some success although a broader transformation of the labour situation in Florida proved to be elusive—in the fall of 1995, for example, the CIW organized a five-day general strike that managed to reverse a unilateral wage cut implemented by one of the largest tomato growers in the area.<sup>14</sup> In the span of 25 years, and the CIW had gone from a seemingly hopeless political project to one of the United States' most celebrated new labour organizations. This chapter seeks to make sense of the CIW's remarkable rise by looking back at its history and asking how it managed to navigate around quiescent legal institutions, powerful industry structures, and an indifferent public.

In order to answer this question, this chapter provides a contextual account of how the CIW took action and why it succeeded, all the while foregrounding the role of law.<sup>15</sup> The conventional wisdom is that state law offered farm workers in Florida no assistance, so the CIW devised a novel private solution (the corollary of this analysis is that we should no longer see state regulation as a terrain of struggle).<sup>16</sup> There are reasons to be critical of this historiography (and the conclusion that it leads to) because we can never be entirely free of law, even when some of the rules that we depend upon fail us. Appraising the CIW's history shows that the law was heavily implicated in its rise because the CIW drew heavily on legal discourse and processes at various points. I argue that the CIW relied upon the law, broadly understood, in three main ways. First, as significant attention was being devoted to the problem of labour trafficking in the national and international arenas in the late 1990s, the CIW was able to intervene in public debates and suggest that the most durable solution was to be found in addressing deteriorating labour conditions on farms. Second, the CIW made use of public attention on trafficking to motivate fast food chains and supermarkets, which were wary of the material and reputational harm that was caused by being linked to human rights abuses in their supply chains, to take responsibility for farm working conditions. Third, the CIW contributed in several important ways to the federal government's prosecution of crew leaders who engaged in labour trafficking, which conferred a measure of social prestige on the CIW and allowed it to convince other actors of its strategy. My approach in this chapter is to analyze key moments in the CIW's history and ask: how were law and legal processes involved in the CIW's strategy for achieving labor rights for farm workers? This question is a pertinent one because the risk of eliding the role of law in the CIW's story is that it limits the full range of resources that other labour organizations, hoping to replicate the CIW's success, may consider available.

Narrating the CIW's history with a view to uncovering the role of law requires a method, and in the next section, I outline the theoretical framework that I draw upon: field theory. The section that follows

<sup>14</sup> See, eg, SL Marquis, *I Am Not a Tractor! How Florida Farmworkers Took on the Fast Food Giants and Won* (Ithaca, ILR Press, 2017), 25-6.

<sup>15</sup> This chapter draws on a case study method to appraise broader transformations in the US labour movement. We can only understand how new labour organizations have come to exercise influence by studying important cases in detail. As many have noted, the case study method is particularly useful for drawing descriptive inferences, and since our aim is to understand how new labour organisations operate, it is an effective methodology. For some key writing on the case study method, see, eg, B Flyvbjerg, 'Five Misunderstandings About Case-Study Research' (2006) 12 *Qualitative Inquiry* 219; J Gerring, 'What is the Case Study and What is it Good For?' (2004) 98 *American Political Science Review* 341; and RE Skate, *The Art of Case Study Research* (Thousand Oaks, SAGE, 1995).

<sup>16</sup> This analysis, for example, is reflected in Susan Marquis's book-length treatment of the CIW's history. Marquis states: "[The CIW's success] ...shows the need for, and the power of, novel solutions in those policy areas where the nature of government may mean the solution cannot come through government mechanism. Government do many things well, but they cannot solve every societal problem."—Marquis, *I Am Not A Tractor*, 222 (n 14).

examines how the CIW operated in five key fields—the labour relations field, the anti-trafficking field, the fast food field, the supermarket field, and the tomato industry field—and how it drew upon the discursive and symbolic power of law in each of these arenas. The final section analyses how the law undergirded the CIW’s strategy at crucial moments. I conclude this chapter with some brief comments about how labour organizations may be able to draw on the law to achieve their objectives.

## II. FIELD THEORY TO MAKE SENSE OF THE SPRAWL OF HISTORY

There are many ways to tell the story of the CIW’s emergence from a position of relative weakness to one of strength. The approach I take in this chapter is to describe how the CIW purposefully interacted with key actors, setting in motion a series of interconnected events, which had the outcome of creating a new system of labour governance for farm workers in Florida.<sup>17</sup> My objective is to set out a historical narrative that draws out relevant insights about how labour organizations, armed with imagination and resolution, can transform the dynamics of labour relations in particular industries. I make use of an important theoretical tool from the discipline of sociology—field analysis—to achieve this end.

Field analysis is a popular analytical framework and methodological tool that seeks to explain social action by focusing on *meso*-level domains in which actors orient their actions to each other.<sup>18</sup> It is a way of understanding the social world, which in the words of Pierre Bourdieu, “thinks *in terms of relations*.”<sup>19</sup> Moreover, it is also a technique that can be applied to particular empirical situations to trace the chain of casual connections that constitute social action. I draw particularly on a variant of field analysis pioneered by sociologists Neil Fligstein and Doug McAdam, which explains the problematics of collective action by synthesizing insights from the social movement, economic sociology and organizational theory literatures.<sup>20</sup> While relying primarily on Fligstein and McAdam’s model of fields—which they call “strategic action fields” to emphasise the agency of actors and contingency of behaviour that creates social transformation—I also rely on the work of a number of other scholars who have developed Fligstein and McAdam’s conceptual apparatus to better understand change in the social world.<sup>21</sup> It is necessary to explicate some of its key features before I can proceed to apply this analytical framework to the situation of the CIW.

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<sup>17</sup> To reconstruct this socio-legal historiography, I have used a variety of techniques, including, reviewing archival material (old newspaper articles, campaign pamphlets, transcripts of public hearings etc), reading secondary material written on the CIW, and conducting semi-structured interviews with key players in the organization (Laura Germino (co-founder of the CIW and mainly responsible for the CIW’s anti-trafficking work), Steve Hitov (CIW’s General Counsel), and Sean Sellers (formerly of the Fair Food Standards Council and Student/Farmworker Alliance)).

<sup>18</sup> See, eg, P Gastón, ‘Contention Across Social Fields: Manipulating the Boundaries of Labor Struggle in the Workplace, Community and Market’ (2018) 65 *Social Problems* 231; E Barman, ‘Varieties of Field Theory and the Sociology of the Non-Profit Sector’ (2016) 10 *Sociology Compass* 442; N Fligstein and D McAdam, *A Theory of Fields* (Oxford, Oxford University Press, 2012); JL Martin, ‘What is Field Theory?’ (2003) 109 *American Journal of Sociology* 1; P Bourdieu and LJD Wacquant, *An Invitation to Reflexive Sociology* (Chicago, University of Chicago Press, 1992), 94.

<sup>19</sup> Bourdieu and Wacquant, *An Invitation to Reflexive Sociology*, 96 (n 18).

<sup>20</sup> Fligstein and McAdam, *A Theory of Fields* (n 18).

<sup>21</sup> I am less interested in Bourdieu’s conception since it is focused more on the reproduction of fields than change that occurs within them—for a critical discussion of Bourdieu’s contribution to field theory, see especially, C Calhoun, ‘Habitus, Field, and Capital: The Question of Historical Specificity’ in C Calhoun, E LiPuma and M Postone, *Bourdieu: Critical Perspectives* (Chicago, University of Chicago Press, 1999) 61.

Turning first to providing a working definition of a field: it is an arena of social life where individual and collective actors struggle for control while sharing an understanding of what is at stake.<sup>22</sup> The stakes in a field include the purpose of the field, the relationship between actors, and the rules regulating acceptable behaviour.<sup>23</sup> Ultimately, determining whether a field exists is an empirical matter to resolve.<sup>24</sup> This chapter explains the CIW's rise through the operation of five distinct, but overlapping, fields: a labour relations field, an anti-trafficking field, a fast food field, a supermarket field, and a tomato industry field. It is possible to describe each of these as distinct fields because they contain actors who vie for supremacy within each of these arenas while being aware of each other and operating in accordance with rules understood by them. These fields are overlapping because certain actors are concurrently prominent players in a number of fields. The fact that the fields are overlapping means that shifts in one can reverberate across others and create system-wide changes.

A set of common understandings and rules govern fields. The common understandings include the purpose of the field, the distribution of power and resources between parties, and expectations about how each other should behave.<sup>25</sup> We can think of these rules as a complex amalgam of norms, practices and processes that are supported by power and legitimacy.<sup>26</sup> While formal, written law is an important aspect of the field's governance, legal and cultural logics interact in numerous ways, including in determining how written laws are operationalized in a particular field. As a number of socio-legal scholars have pointed out, the law is not only a tool of domination, but under the right conditions, can be utilized instrumentally by less powerful actors.<sup>27</sup> While these common understandings and rules are not static, they are often durable.

As Fligstein and McAdam point out, shared understandings do not indicate that the actors see the distribution of power and resources within the field as legitimate.<sup>28</sup> *Contention* is a central aspect of fields because actors take individual and collective action to disrupt fields and change the power relations within them. *Incumbents*, usually endowed with greater resources and interpretive frames that favour the status quo, will succeed in having their dominant position reaffirmed. However, *challengers* can, and often do, manage to shift fields in alternative directions. Field analysis is, at its heart, a theory of social change. While field members have a fairly wide degree of latitude to act in ways that benefit them, their structural positions within the field and the accepted rules of the field often constrain their agency.

Even the most stable fields do not remain stable forever. The most common way for change to take place within a field is as a result of an exogenous shock emanating from another since weaker actors will not find it easy to overcome the structural limitations engendered by their positions.<sup>29</sup> According to

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<sup>22</sup> Fligstein and McAdam, *A Theory of Fields* (n 18).

<sup>23</sup> *Ibid.*, 9.

<sup>24</sup> Bourdieu and Wacquant, *An Invitation to Reflexive Sociology*, 100 (n 18).

<sup>25</sup> Fligstein and McAdam, *A Theory of Fields* (n 18).

<sup>26</sup> S Falk Moore, 'Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study' (1973) 7 *Law & Society Review* 719.

<sup>27</sup> The literature on how weaker parties in society mobilise law in aid of their objectives is large. For some key sources, see especially GN Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?*, 2nd ed (Chicago, University of Chicago Press, 2008); SA Scheingold, *The Politics of Rights*, 2nd ed (Ann Arbor, University of Michigan Press, 2004); and M McCann, *Rights at Work: Pay Equity and the Politics of Legal Mobilization* (Chicago, University of Chicago Press, 1994).

<sup>28</sup> Fligstein and McAdam, *A Theory of Fields*, 170 (n 18).

<sup>29</sup> *Ibid.*

Fligstein and McAdam, an exogenous shock can take one of three forms: (1) entry into a field by external parties; (2) changes in a related field; or (3) through the occurrence of large and impactful events which create momentary crises.<sup>30</sup> This means that field changes occur as a result of something that comes from the outside. Pablo Gaston argues that the exogenous shock explanation of change does not account sufficiently for actors' agency—he finds that actors can actively manipulate the situation in one field with the objective of creating change in another (which Gaston calls "cross-field manipulation").<sup>31</sup> Both dynamics—exogenous shock and intentional cross-field manipulation—are evident in the story of the CIW.

### III. THE RISE OF THE CIW

#### A. *Challenging labour relations in Florida*

The actors in the Florida labour relations field include tomato growers, farm workers, government bodies, and civil society actors. These actors are involved in determining how tomato farmers should engage with their workers. The government bodies include federal agencies that enforce various workplace standards (e.g. Wage & Hours Division and the Occupational Health and Safety Administration).<sup>32</sup> The National Labour Relations Board, which should be a key player in the labour relations field, does not feature prominently with respect to farm workers because the National Labor Relations Act, 1935, does not cover agricultural employees.<sup>33</sup> Farm workers in Florida rely heavily on legal service providers and farm worker advocacy organizations, and as a result, these organizations are important players in the Florida labour relations field.

Prior to the implementation of the FFP, agricultural employers behaved as though they believed that the rights of farm workers could be violated with impunity, and government bodies did very little to dissuade them of this belief.<sup>34</sup> While employers must abide by the limited federal and state workplace regulations that apply to them—limited because farm workers are not covered by significant parts of the federal Labor Standards Act, 1938—<sup>35</sup> many employers do not comply because the risk of being caught by overburdened field officers is low.<sup>36</sup> Farming interests in the state have continued to exercise an outsized influence to ensure that statutory workplace standards will not be strengthened nor

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<sup>30</sup> *Ibid.*

<sup>31</sup> Gastón, 'Contention Across Social Fields' (n 18).

<sup>32</sup> Government bodies in Florida only play a marginal role because there is no state department of labor (it was abolished in the early 2000s). While the State Attorney General has some oversight functions, she has mostly been inactive in enforcing labour standards—S Woodman, 'Florida Has Not Held an Employer Responsible for Violating the Minimum Wage Since 2011', *The Nation* (New York 11 July 2016), [www.thenation.com/article/florida-has-not-held-an-employer-responsible-for-violating-the-minimum-wage-since-2011/](http://www.thenation.com/article/florida-has-not-held-an-employer-responsible-for-violating-the-minimum-wage-since-2011/).

<sup>33</sup> National Labor Relations Act, 29 USC § 152 (3).

<sup>34</sup> While wage theft is rife in Florida and farm workers are particularly affected—see C Hernandez, *Wage Theft in Florida: A Real Problem with Real Solutions* (Research Institute on Social and Economic Policy, 2010), [acwtff.files.wordpress.com/2012/09/fact-sheet-wt-report.pdf](http://acwtff.files.wordpress.com/2012/09/fact-sheet-wt-report.pdf).

<sup>35</sup> M Linder, 'Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal' (1986-7) 65 *Texas Law Review* 1335.

<sup>36</sup> On the general dearth of federal labour inspectors, see, eg, M Dietz, D Levitt and E Love, 'Enforcement of Labor Standards' in M Reich, K Jacobs and M Dietz, eds, *When Mandates Work: Raising Labor Standards at the Local Level* (Berkeley, University of California Press, 2014) 229. On the limitations of federal labour enforcement in Florida in particular, see, eg, R Greene, 'Advocates Don't Feel Labor Department is Ally', *The Miami Herald* (Miami 2 September 2003).

enforcement intensified,<sup>37</sup> and farm labour advocates who attempt to undertake private enforcement to fill the gap left by public regulators face a Sisyphean task. Of course, workers and their advocates do not share the view that their labour rights are violable, but their lack of power within the labour relations field means that they must often acquiesce.

Even among farm labour advocates, significant differences exist. The conflicts between two farm worker advocacy organizations—the CIW and the Migrant Farmworker Justice Project (MFJP)<sup>38</sup>—about the correct strategy to assist farm workers reveal that shared understandings are contested from multiple angles. MFJP, which is a part of Florida Legal Services, is a legal aid provider that assists low-wage and vulnerable farm workers. MFJP services the farm worker population by trying to gain the attention of public labour inspectorates, or by filing private legal suits, sometimes in the form of class actions, to achieve legal remedies for its clients. For many years before the FFP commenced operation, the prevalent mode of contesting labour relations was to file private legal suits to achieve redress for individual workers who had experienced wage theft. In fact, two of the CIW’s founders, Greg Asbed and Laura Germino, started their careers working as paralegals for a similar legal service provider, Florida Rural Legal Services.<sup>39</sup> Their frustration with the lack of impact of legal advocacy prompted Asbed and Germino, together with other members of the CIW, to devise the FFP. As the FFP started to become more prominent, tensions between the MFJP and CIW began to increase. Members of the MFJP questioned the effectiveness of the CIW’s approach, going so far as to disparage the motivations of the group’s leadership.<sup>40</sup> To understand how the CIW’s vision of field transformation won out, it is necessary to examine nearby fields.

### B. A proximate anti-trafficking field

As the issue of trafficking started to gain more traction in the 1990s, a national anti-trafficking field began to cohere and the CIW played a key role in this process. I argue that the CIW was able to strategically utilize prevalent discourses in this field to draw attention to the issue of farm working conditions in Florida where forced labour appeared to thrive. Equally important, I contend that the CIW was able to intervene into the public debate and argue that the problem of human trafficking could not be solved with additional prosecutions and harsher penalties, but that it required a preventative approach, which meant empowering workers and improving labour standards in industries affected by trafficking.

An anti-trafficking field had existed in the United States for many decades, primarily made up of federal and state authorities responsible for enforcing the patchwork of legal prohibitions on the books against slavery, forced labour, peonage, human smuggling and aggravated sexual assault.<sup>41</sup> At the CIW’s instigation, the anti-trafficking field, which had previously ignored the issue of forced labour, started to turn its attention to the problem of modern-day slavery on Florida’s farms. In 1992, the CIW discovered

<sup>37</sup> Farming groups, such as the Florida Fruit and Vegetable Association, have been powerful advocates for the interests of farm employers, with influence in Washington and the state legislature since the 1940s—see, eg, C Hahamovitch, *No Man’s Land: Jamaican Guestworkers in America and the Global History of Deportable Labor* (Princeton, Princeton University Press, 2011), 94.

<sup>38</sup> Recently renamed the Immigrant & Migrant Rights Project.

<sup>39</sup> Marquis, *I Am Not A Tractor*, 10 (n 14).

<sup>40</sup> Coalition of Immokalee Workers, *Special Comment on the Lawsuit Filed Recently Against Burger King*, ciw-online.org/blog/2011/09/florida-legal-services-lawsuit/.

<sup>41</sup> JM Chacón, ‘Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking’ (2006) 74 *Fordham Law Review* 2977.



the existence of a trafficking operation through its contact with farm workers.<sup>42</sup> It started to investigate the matter when the US Department of Justice and the FBI initially showed limited interest, and it continued gathering information and collecting evidence for five years, even after law enforcement authorities became involved.<sup>43</sup> In 1997, after a lengthy trial, a crew leader and his associate were found guilty of 25 counts of enslavement, extortion, immigration and labour violations and were sentenced to 15 years in prison.<sup>44</sup> While the case was successfully prosecuted by the federal Department of Justice, it was brought only after the CIW discovered the existence of the operation, applied pressure to prosecute, and provided vital evidence gathered through its own investigations.<sup>45</sup> Between 1997 and 2010, there were nine prosecutions involving forced labour on Florida's farms and the CIW participated in some way in most of them.<sup>46</sup> The horrors uncovered by these prosecutions prompted government officials to label Florida the "ground zero for modern day slavery."<sup>47</sup> In one particularly egregious case, Miguel Flores and Sebastian Gomez were found to have kept a workforce of some 400 men and women, mostly indigenous Mexicans and Guatemalans, under armed guard and compelled them to work 10-12 each day harvesting tomatoes, six days per week, for as little as \$20 per week.<sup>48</sup> As a result of these prosecutions, law enforcement authorities released more than 1,000 workers held captive.<sup>49</sup> These cases received significant coverage by the media, with stories placed prominently in publications such as the *St. Petersburg Times*, *Washington Post* and the *New York Times*.<sup>50</sup>

At the turn of the century, the anti-trafficking field began to consider the enactment of specific legislation to facilitate greater prosecution of this conduct. Concurrently, spurred by a desire to tackle transnational crime, the international community was engaged with the negotiation of a Trafficking Protocol under the auspices of the United Nations Office on Drugs and Crime.<sup>51</sup> While the international and national efforts mostly developed along parallel tracks, their paths frequently crossed. The US Congress passed the Trafficking Victims Protection Act 2000<sup>52</sup> (TPVA) on 28 October 2000 amid an extraordinary amount of attention on the issue of human trafficking in the preceding decade. The TPVA

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<sup>42</sup> Marquis, *I Am Not A Tractor*, 37-45 (n 14).

<sup>43</sup> *Ibid.*

<sup>44</sup> Department of Justice, 'Media Release: Miguel Flores and Associates Sentenced to 15 Years for Enslaving Migrant Workers' (Washington DC 14 November 1997), [www.justice.gov/archive/opa/pr/1997/November97/482cr.htm.html](http://www.justice.gov/archive/opa/pr/1997/November97/482cr.htm.html).

<sup>45</sup> Tom Perez, then at the Department of Justice, appointed Luis Cabeza deBaca, a civil rights prosecutor, to take charge of the case. This was one of deBaca's early forced labour cases. In 2009, deBaca was appointed Ambassador-at-Large to Monitor and Combat Trafficking in Persons by President Obama—Hitov, Interview (n 11).

<sup>46</sup> Due to the CIW's trusted status within the migrant farmworker community, it was able to receive information from workers and pass it on to the authorities as well as provide support and reassurance to affected workers so that they could testify against their abusers. On occasion, the CIW also went undercover to gather evidence. See, eg, Absed and Hitov, 'Preventing Forced Labor in Corporate Supply Chains above', 502-4 (n 13).

<sup>47</sup> J Bowe, 'Nobodies: Does Slavery Exist in America?', *The New Yorker* (New York 21 April 2003), [www.newyorker.com/magazine/2003/04/21/nobodies](http://www.newyorker.com/magazine/2003/04/21/nobodies).

<sup>48</sup> S Sellers and G Asbed, 'The History and Evolution of Forced Labor in Florida Agriculture' (2011) 5 *Race/Ethnicity: Multidisciplinary Global Contexts* 29.

<sup>49</sup> *Ibid.*

<sup>50</sup> See, eg, E Schollosser, 'A Side Order of Human Rights', *New York Times* (New York 6 April 2005), [www.nytimes.com/2005/04/06/opinion/a-side-order-of-human-rights.html?](http://www.nytimes.com/2005/04/06/opinion/a-side-order-of-human-rights.html?); B Broadway, 'Churches Back Boycotts Over Migrant Workers; Labor Unions Decry Treatment by Taco Bell, Mt. Olive Suppliers', *The Washington Post* (Washington DC 22 November 2003); and B Maxwell, 'Slavery Alive in Florida's Agricultural Industry', *St Petersburg Times* (St Petersburg 3 July 2002).

<sup>51</sup> Which became *A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, UNTS 2237, 319.

<sup>52</sup> Public Law No 106 - 386.

advanced a number of preventative measures, created new offences and increased penalties to aid prosecutions, as well as providing for the protection of victims (e.g. by the creation of a special T-visa for trafficked victims).<sup>53</sup> The CIW was involved in the TPVA's conception, drafting and enactment.<sup>54</sup> Although President Bill Clinton signed the TPVA into law, the subsequent administration of George W. Bush, keen to define "compassionate conservatism," also expressed enthusiastic support.<sup>55</sup> Some have argued that genuine concern for the plight of trafficked victims intersected with the United States' post-September 11 preoccupation with securing its border with Mexico to create the perfect storm for a legislative intervention.<sup>56</sup> Others have pointed out that the national anti-trafficking discussion also relied upon anxieties about gender and sexuality.<sup>57</sup>

The passage of the TPVA saw a three-fold increase in the number of prosecutions undertaken by federal authorities,<sup>58</sup> with the then-Attorney General, John Ashcroft, announcing in 2001 that fighting trafficking would be a major priority for the Department of Justice.<sup>59</sup> The CIW made use of the national attention to make a compelling case for why the solution to the problem—at least with respect to forced labour—lay in improving the labour conditions of farm workers. Both the TPVA and Trafficking Protocol take a criminal law approach to the issue of labour trafficking, which sees trafficking as an exceptional occurrence that must be treated with penal sanction. On the other hand, the CIW saw forced labour on farms as driven by poverty and powerlessness, and therefore, advocated what labour law scholars such as Hila Shamir call a "labour approach," which treats trafficking as a problem to be solved by transforming the underlying structure of labour markets.<sup>60</sup> Shamir's point is that in circumstances where work has become so degraded, unscrupulous traffickers are bound to act opportunistically. The labour approach sees trafficking as existing on a continuum: one end is characterized by low pay, dangerous working conditions, and limited worker power to seek remedies, and the other end, by workers forced to perform work under compulsion.<sup>61</sup> The CIW proposal to stamp out slavery in Florida was to transform the working conditions on fields growing one of Florida's major crops, tomatoes. This attitude characterized the CIW's approach right from the outset—as early as 2002, Germino, one of the CIW's founders, argued that, "*the solution...[to labour trafficking]...is attacking the root causes and modernizing agricultural labor relations so workers have more power.*"<sup>62</sup>

Uniquely, the CIW also saw that if major purchasers of Florida's tomatoes could drive down prices through large volume purchases, then these same entities could also motivate farmers to eliminate

<sup>53</sup> H Shamir, 'A Labor Paradigm for Human Trafficking' (2012) 60 *UCLA Law Review* 76.

<sup>54</sup> Interview with L Germino, Founding Member, Coalition of Immokalee Workers, by phone (15 May 2018). See also, K Bales and R Soodalter, *The Slave Next Door* (Berkeley, University of California Press, 2009), Ch 3.

<sup>55</sup> W Chapkis, 'Soft Glove, Punishing Fist: The Trafficking Victims Protection Act 2000' in E Bernstein and L Schaffner, eds, *Regulating Sex: The Politics of Intimacy and Identity* (New York, Routledge, 2005) 51, 59.

<sup>56</sup> N Sharma, 'Anti-Trafficking Rhetoric and the Making of Global Apartheid' (2005) 17 *NWSA Journal* 88.

<sup>57</sup> Chapkis, 'Soft Glove, Punishing Fist' (n 55).

<sup>58</sup> Florida State University Center for the Advancement of Human Rights, *Florida Responds to Human Trafficking* (2003), 25, [www.northeastern.edu/humantrafficking/wp-content/uploads/Florida\\_Responds\\_to\\_Human\\_Trafficking.pdf](http://www.northeastern.edu/humantrafficking/wp-content/uploads/Florida_Responds_to_Human_Trafficking.pdf).

<sup>59</sup> *Ibid.*

<sup>60</sup> Shamir, 'A Labor Paradigm for Human Trafficking' (n 53).

<sup>61</sup> *Ibid.* The continuum approach also accords with how workers subjectively experience coercion along a spectrum—D Brennan, 'Subjectivity of Coercion: Workers' Experiences with Trafficking in the United States' in P Kotiswaran, ed, *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery* (Cambridge, Cambridge University Press, 2017) 134.

<sup>62</sup> M Maidenberg, 'Florida Employers Guilty of Slavery', *LaborNotes* (31 July 2002), [www.labornotes.org/2002/07/florida-employers-guilty-slavery](http://www.labornotes.org/2002/07/florida-employers-guilty-slavery).

forced labour.<sup>63</sup> Although the ultimate beneficiaries of forced labour were almost always larger businesses that purchased farmers' tomatoes, none were ever prosecuted.<sup>64</sup> Brandishing posters and placards featuring phrases, such as "Taco Bell makes farm workers poor" and "From the hands of a slave", the CIW made the public case for why fast food chains and supermarkets should be held responsible for failing to eradicate forced labour in their supply chains. The CIW was engaged in what the social movement literature calls "reframing", which explains how actors present their vision for transformation in a way that is culturally resonant and socially convincing.<sup>65</sup> Sally Merry Engle reminds us that "*frames themselves are not ideas but ways of packaging and presenting ideas that generate shared beliefs, motivate collective action, and define appropriate strategies for action.*"<sup>66</sup> The CIW was able to draw on the national attention on combatting trafficking, together with the growing recognition that the agricultural sector in Florida was a site of forced labour, to give force to its claim for improving labour conditions.<sup>67</sup> Moreover, they had a convincing proposal for the means to achieve the elimination of forced labour on Florida's farms.

### C. Taking the fight to the fast food companies

Even though the CIW proposed a labour approach to the problem of human trafficking, it was clear for the CIW that pursuing the growers alone was not a feasible strategy for changing the working conditions on farms. Growers were facing increasing pressure from the purchasing practices of consolidated buyers. The unique insight of the CIW was that the real power to change labour conditions on farms lay with one of the big purchasers of Florida's tomatoes: the fast food chains. With the eating habits of Americans changing in recent decades, the food services sector (in which fast food is the biggest player) consumes a growing share of the tomatoes consumed.<sup>68</sup> By purchasing large volumes, fast food companies can dictate prices, product quality and a variety of other conditions; Yum Restaurants!, McDonalds, Burger King and a handful of other operators have the power to shape entire fresh produce sectors.<sup>69</sup> These companies depend upon Florida for its field tomatoes because Florida supplies close to 90% of America's needs during the winter months.<sup>70</sup> Based on its understanding of the structure of the tomato and fast food industries, and Florida's unique position as a major fresh produce supplier, the CIW decided to hold fast food companies responsible for farm working conditions. We can

<sup>63</sup> Maquis, *I am not a Tractor!*, 45 (n 14). This analysis is also shared by scholars who study the US tomato value chain—see, eg, G Gereffi et al, "US-Based Food and Agricultural Value Chains and Their Relevance to Healthy Diets" (2009) 4 *Journal of Hunger & Environmental Nutrition* 357.

<sup>64</sup> Testimony of Charlie Frost, Detective, Collier County Sheriff's Office at the Hearing of the Committee on Health, Education, Labor, and Pensions, 'Examining Ending Abuses and Improving Working Conditions for Tomato Workers', Senate Hearing 110-889 (15 April 2008).

<sup>65</sup> S Engle Merry, *Human Rights & Gender Violence: Translating International Law into Local Justice* (Chicago, Chicago University Press, 2006), Ch5; DA Snow et al, 'Frame Alignment Processes, Micromobilization, and Movement Participation' (1986) 51 *American Sociological Review* 464.

<sup>66</sup> Merry, *Human Rights & Gender Violence*, 136 (n 65).

<sup>67</sup> The labour standards contained in the FFP are particularly effective in addressing labour trafficking. For example, the use of labour intermediaries is a major factor in the incidence of forced labour in domestic supply chains, and the FFP bans the use of labour contractors—see A Crane et al, "Governance Gaps in Eradicating Forced Labor: From Global to Domestic Supply Chains" (2017) *Regulation & Governance* (early access), <https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12162>.

<sup>68</sup> Oxfam America, *Like Machines in the Field: Workers Without Rights in American Agriculture* (March 2004), 28, [www.oxfamamerica.org/static/media/files/like-machines-in-the-fields.pdf](http://www.oxfamamerica.org/static/media/files/like-machines-in-the-fields.pdf).

<sup>69</sup> *Ibid.*

<sup>70</sup> Greenhouse, 'In Florida Tomato Fields, a Penny Buys Progress' (n 12).

consider the dense network of horizontal and vertical relationships of production and exchange between tomato producers, fast food companies, and consumers, as constituting a fast food field.

The CIW first targeted the fast food giant, Taco Bell, in 2000 by asking it to pay one penny more for each pound of round tomatoes purchased from Florida's farmers.<sup>71</sup> Taco Bell was an obvious choice of target because of its associations with Mexican culture—its mascot is the iconic talking Chihuahua who exclaims in Spanish, “*Yo Quiero Taco Bell!*” (I want Taco Bell!).<sup>72</sup> At first, Taco Bell was unwilling to agree to the CIW's terms, citing the fact that the working conditions of its suppliers had little to do with the company. After a grueling five-year campaign, Yum! Foods (which owned the Taco Bell chain) eventually capitulated. After further campaigning, the CIW was able to pressure McDonalds in 2007 to agree to its terms. Burger King and Subway followed suit in 2008 and Chipotle and Mexican Grill signed in 2012. Wendy's is the last of the five major fast food corporations that have not joined the FFP and it is still (as of June 2018) the target of a wide-ranging campaign. The tactics that the CIW employed in its campaigns against the fast food companies included organizing protest marches, calling for boycotts, staging hunger strikes, and proposing resolutions at shareholder meetings to pressure management. The boycotts, in particular, proved to be a potent tool in the modern era because of their ability to disrupt contemporary forms of capitalism, which Stuart Hall has argued is increasingly mediated by cultural meaning and knowledge.<sup>73</sup>

The CIW confronted these powerful corporations with sympathetic allies by its side, such as churches and student groups.<sup>74</sup> Students, for example, ran campaigns at close to 300 colleges, resulting in 25 schools, colleges and universities either removing or preventing new Taco Bell restaurants from opening, or ending existing sponsorship agreements with the company.<sup>75</sup> The campaigns that the CIW waged from 2005 against the fast food sector contained two ingredients that social movement scholars have highlighted as essential to successful social change: repertoires of contention that are broad, creative and impactful, and solidarity from networks of allies.<sup>76</sup>

Why did fast food companies ultimately bow to social movement pressure from the CIW and its allies? One reason is that the CIW ran a campaign that caused tangible commercial damage.<sup>77</sup> A company executive at Compass Group (a food service company), which signed on to the FFP in 2009, admitted in a rare moment of candour that the reason for the company's acquiescence was the disruption that the CIW threatened to its university operations.<sup>78</sup> We can only speculate about other motivations. Generally, an important reason why companies agree to social movement demands is fear

<sup>71</sup> Taco Bell is owned by Yum Restaurants!, which also owns Pizza Hut, KFC, A&W and a number of other fast food brands.

<sup>72</sup> Marquis, *I am not a Tractor!*, 54 (n 15).

<sup>73</sup> S Hall, 'Brave New World' (October 1988) *Marxism Today* 24.

<sup>74</sup> J Lo and A Jacobson, 'Human Rights from Field to Fork: Improving Labor Conditions for Food-Sector Workers by Organizing Across Boundaries' (2011) 5 *Race/Ethnicity: Multidisciplinary Global Contexts* 61.

<sup>75</sup> D Campbell, 'Taco's Tomato Pickers on Slave Wages', *The Guardian* (London 17 March 2003), [www.theguardian.com/world/2003/mar/17/usa.duncancampbell](http://www.theguardian.com/world/2003/mar/17/usa.duncancampbell).

<sup>76</sup> See, eg, S Tarrow, *Power in Movements*, 3rd ed (Cambridge, Cambridge University Press, 2011).

<sup>77</sup> University campaigns succeeded in either removing existing or preventing new Taco Bell restaurants opening on 23 campuses. On Boise State University, the campaign prevented Taco Bell obtaining naming rights to a basketball stadium—see Marquis, *I Am Not a Tractor!*, 64 (n 14).

<sup>78</sup> C Queen, Address delivered at the 2015 United Nations Forum on Business and Human Rights, 18 November 2015, [www.ciw-online.org/blog/2015/11/ffp-united-nations](http://www.ciw-online.org/blog/2015/11/ffp-united-nations).

of the damage that might be caused to their carefully cultivated brands.<sup>79</sup> This seems particularly apposite in the case of fast food companies, which value highly their reputations. The CIW's campaign also came at an opportune time. In the closing decades of the 20<sup>th</sup> century, public opinion seemed to be turning against fast food. The libel case that McDonalds brought against two Greenpeace activists in 1990 turned out to be a public relations disaster because it showed the corporate chicanery necessary to maintain its public image.<sup>80</sup> In 2004, the premier of Morgan Spurlock's documentary, "Super Size Me," brought further bad publicity. The CIW's strategically called boycotts came at a time of unprecedented interest in the fast food sector's impacts on people's health, the environment, and animal rights. The CIW capitalized on the fast food sector's momentary weakness to draw attention to working conditions in its supply chains. It used the incidence of forced labour uncovered through the anti-trafficking prosecutions to further dramatize the situation.

#### D. Supermarkets join the Fair Food Program

Besides fast food corporations, the other major customers of Florida's tomatoes are supermarkets. In 2008, Whole Foods voluntarily joined the FFP. Aimed at a niche upwardly mobile urban market, Wholefoods seeks to distinguish itself on the basis of product quality, just treatment of animals, and environmentally sustainable practices. Its decision to join the FFP can be attributed to growing awareness about labour issues in products' supply chains, the often forgotten pillar of ethical consumption.<sup>81</sup> Walmart's accession to the FFP in 2014 was more surprising, and potentially more transformative because Walmart also agreed to apply the FFP to its tomato growers in Georgia, South Carolina and Virginia, in addition to its strawberry and apple suppliers.<sup>82</sup> But what motivated Walmart, a company that labour historian Nelson Lichtenstein has described as possessing a "militant hostility to trade unionism,"<sup>83</sup> to join a program aimed at improving the lot of farm workers?

Some context is important to understand the evolving relationship between the FFP and prominent supermarket companies.<sup>84</sup> After World War II, the number of supermarkets in the United States exploded, transforming the way that Americans receive their food. It is estimated that 40,000 supermarkets (conventional supermarkets and "hypermarkets" like the Walmart SuperCenters) are located around the country.<sup>85</sup> In the 1990s, there was a massive wave of consolidation in the industry

<sup>79</sup> Elliott and Freeman, 'White Hats or Don Quixotes?' (n 7). Cf. Tim Bartley and Curtis Child did not find that anti-sweatshop campaigns had a discernible impact on firms' reputations— T Bartley and C Child, 'Movements, Markets and Fields: The Effects of Anti-Sweatshop Campaigns on U.S. Firms, 1993-2000' (2011) 90 *Social Forces* 425.

<sup>80</sup> E Schollosser, *Fast Food Nation: The Dark Side of the All-American Dream* (Boston, Houghton Mifflin Company, 2001), 245-9.

<sup>81</sup> For example, Whole Foods announced in 2015 that it would no longer source products from suppliers that use prison labour—S Shemkus, 'Beyond Cheap Labor: Can Prison Work Programs Benefit Inmates?', *The Guardian* (London 9 December 2015), [www.theguardian.com/sustainable-business/2015/dec/09/prison-work-program-ohsa-whole-foods-inmate-labor-incarceration](http://www.theguardian.com/sustainable-business/2015/dec/09/prison-work-program-ohsa-whole-foods-inmate-labor-incarceration).

<sup>82</sup> G Gilbert, "The Coalition of Immokalee Workers Takes Aim at Wendy's", *In These Times* (Chicago 2 March 2015), [inthesetimes.com/working/entry/17701/coalition\\_of\\_immokalee\\_workers\\_wendys](http://inthesetimes.com/working/entry/17701/coalition_of_immokalee_workers_wendys).

<sup>83</sup> Nelson Lichtenstein describes in great detail the extreme steps taken by Walmart to defeat unionization efforts among its distribution and retail workers— N Lichtenstein, *The Retail Revolution: How Wal-Mart Created a Brave New World of Business* (New York, Metropolitan Books, 2009), Ch 5.

<sup>84</sup> The following supermarket chains are members of the FFP (indicates when they joined): Whole Foods Markets (2008), Trader Joe's (2012), Walmart (2014), Fresh Market (2015), and Ahold USA (2015).

<sup>85</sup> FoodIndustry.com, *How Many Grocery Stores are in the United States?*, [www.foodindustry.com/articles/how-many-grocery-stores-are-there-in-the-united-states](http://www.foodindustry.com/articles/how-many-grocery-stores-are-there-in-the-united-states).

and locally-based chains gave way to large regionally-based and national monoliths.<sup>86</sup> Many of these consolidations were in response to Walmart's entry into the supermarket business and its rapid growth. Through a combination of bringing logistics such as purchasing, warehousing, distribution and trucking in-house, using technological innovations to meticulously gather data on sales, keeping labour costs low, and leveraging its large purchasing volumes to obtain cheap prices from its suppliers, Walmart came to dominate the American retail sector more generally, and food retailing in particular.<sup>87</sup> Walmart now accounts for almost one-quarter to one-third of all grocery sales in the United States.<sup>88</sup> Within the supermarket field, which is made up of these regionally and nationally-based supermarket chains and their suppliers, there is fierce competition. This competition means that supermarkets compete on the basis of price, quality and diversity.<sup>89</sup> According to Jason Konefal and his colleagues, the range and quality of fresh produce has become an especially important field of battle, and retailers have moved to using private labels as a way to "*advertise the quality of their products, but also to further diversify the marketplace for food and develop new market niches.*"<sup>90</sup>

With this background in mind, it is possible to posit four hypotheses as to why Walmart joined the FFP. The most obvious explanation is that the FFP offered a relatively inexpensive way for Walmart to launder its reputation. Charity has long been a part of corporate public relations strategy, which likely explains why Walmart controls one of the country's largest philanthropy foundations.<sup>91</sup> Second, Walmart's "just-in-time" procurement practices means that it has little room for disruptions in its supply chains. Labour strife on farms can cause disruption, and thus, from Walmart's perspective, pacifying workers with a relatively small increase in wages might have provided it with a way to insure against this risk.<sup>92</sup> Third, joining the FFP might have offered Walmart with an opportunity to appease a growing segment of its consumer base that is no longer primarily motivated by price alone.<sup>93</sup> The fourth, and perhaps most intriguing hypothesis is that the prevalence of forced labour on farms was a situation that Walmart's management could no longer countenance. Bethany Moreton has shown how Evangelical Christianity was strategically invoked at several points in Walmart's past to further its corporate strategy, and the existence of force labour in its supply chains likely contradicted Walmart's professed piety.<sup>94</sup> In all likelihood, the real attraction of the FFP was a combination of factors— while eliminating the risk of disruption in its supply chain, the FFP allowed Walmart to burnish its Christian credentials and also appeal to a portion of its customers that cares about ethical consumption.

#### E. Tomato industry field

<sup>86</sup> J Konefal et al, 'Supermarkets and Supply Chains in North America' in D Burch and G Lawrence, eds, *Supermarkets and the Agrifood Supply Chains: Transformation in the Production and Consumption of Foods* (Cheltenham, Edward Elgar, 2007) 268.

<sup>87</sup> Lichtenstein, *The Retail Revolution* (n 83).

<sup>88</sup> H James Jr, M Henrickson and P Howard, 'Networks, Power and Dependency in the Agrifood Industry' in H James Jr, ed, *The Ethics and Economics of Agrifood Competition* (Dordrecht, Springer, 2013) 99.

<sup>89</sup> Konefal et al, 'Supermarkets and Supply Chains in North America' (n 86).

<sup>90</sup> *Ibid*, 278.

<sup>91</sup> Lichtenstein, *The Retail Revolution*, 209-15 (n 83).

<sup>92</sup> A sub-field called supply chain risk management provides important insights for companies seeking to manage a variety of risks in their supply chains (environmental, industrial, organizational etc)—see, eg, W Ho et al, 'Supply Chain Risk Management: A Literature Review' (2015) 53 *International Journal of Production Research* 5031.

<sup>93</sup> Walmart has recently launched a range of organic products under its Great Value store brand—J Sturgeon, 'Organic Groceries Go Discount as Walmart Canada Rolls Out New Label', *Global News* (Toronto 15 December 2015), [globalnews.ca/news/2404387/organic-groceries-go-discount-as-walmart-canada-rolls-out-new-label](http://globalnews.ca/news/2404387/organic-groceries-go-discount-as-walmart-canada-rolls-out-new-label).

<sup>94</sup> B Morton, *To Serve God and Wal-Mart: The Making of Christian Free Enterprise* (Cambridge, Harvard University Press, 2009).

The growing number of fast food and supermarket companies joining the FFP could not make improvements for workers until the CIW obtained the cooperation of the growers to implement the conditions of employment set out in the Code of Conduct and to pass on the wage premium to workers. Growers were initially wary of the FFP for two main reasons. First, even though the wage premium was being provided by buyers further upstream, growers would still incur some costs to implement some of the FFP's terms.<sup>95</sup> Second, and more importantly, accession to the FFP meant that the growers would need to share power with workers, a state of affairs to which they were unaccustomed. In the early days of the CIW's struggle, in response to a request for a wage increase, a grower tellingly remarked, "*The tractor does not tell the farmer how to run his farm.*"<sup>96</sup> This statement encapsulates how the tomato growers saw their workforce: as a factor of production rather than living and breathing humans with their own needs and desires. In 2005, the CIW marked its first victory with Yum! Restaurants joining the program, but it would not be until 2010 that the first grower would agree to implement the FFP.<sup>97</sup>

Growers' compliance with the FFP ultimately depended on a set of unique dynamics in the tomato industry field. Initially, the growers insisted that implementation was a matter for buyers to resolve with the CIW. The growers cited practical and legal impediments to implementing the FFP and argued that they could not be held responsible for the instances of slavery uncovered because growers did not directly employ the farm workers (workers were mostly employed through labour contractors).<sup>98</sup> They remained unmoved by the demands of buyers—even an entreaty by the National Restaurants Association was unsuccessful. In fact, the Florida Tomato Growers Exchange (Exchange), an industry group made up of tomato growers in Florida, threatened its members with US\$100,000 fines if they cooperated with the CIW.<sup>99</sup> The continued revelations regarding forced labour on Florida's fields, however, changed the calculus for the growers. On 20 December 2008, an article in the *Fort Meyer News* named the two largest tomato growers in Florida, Six L's (now Lipmans Produce) and Pacific Tomato Growers, as direct beneficiaries of labour trafficking.<sup>100</sup> In 2010, Publix, Florida's largest grocery chain, refused to purchase tomatoes from Florida until it could be assured that slaves did not pick their tomatoes.<sup>101</sup> This proved to be the turning point which split the united front of the growers. Shortly after, Pacific Tomato Growers left the Exchange and agreed to implement the FFP. A few weeks later, Six L's signed. In late 2010, the Exchange surrendered and entered into an agreement with the CIW, which extended the protections to include a complaint resolution process, workplace health and safety Committees, and a process for educating farmworkers on their rights under the Code of Conduct.<sup>102</sup> As a result of this agreement, the Code of Conduct has been in place since the 2011-2012 growing season.

<sup>95</sup> For example, Pacific Tomato Growers reported that the company spent \$5,000 on shade tents, and \$50,000 for an improved drinking water system, in addition to wage costs for the time spent on waiting (which was previously unpaid)—Greenhouse, 'In Florida Tomato Fields, a Penny Buys Progress' (n 12).

<sup>96</sup> Testimony of Benitez, Co-Founder of the Coalition of the Immokalee Workers, at the Hearing of the Committee on Health, Education, Labor, and Pensions, 'Examining Ending Abuses and Improving Working Conditions for Tomato Workers', Senate Hearing 110-889 (15 April 2008).

<sup>97</sup> During the five-year period in which the growers refused to cooperate, the wage premium that the buyers provided sat in escrow accounts undistributed to workers.

<sup>98</sup> Testimony of Reggie Brown, Executive Vice-President, Florida Tomato Growers Exchange at the Hearing of the Committee on Health, Education, Labor, and Pensions, 'Examining Ending Abuses and Improving Working Conditions for Tomato Workers', Senate Hearing 110-889 (15 April 2008).

<sup>99</sup> Greenhouse, 'In Florida Tomato Fields, a Penny Buys Progress' (n 12).

<sup>100</sup> Amy Bennett Williams, 'Immokalee Family Sentenced for Slavery', *Fort Myers News Press* (20 December 2008) cited in Marquis, *I Am Not a Tractor!*, 90-1 (n 14).

<sup>101</sup> Marquis, *I Am Not a Tractor!*, 93 (n 14).

<sup>102</sup> Coalition of Immokalee Workers, *About CIW*, ciw-online.org/about.

#### F. A new labour relations paradigm

The CIW's proposal for reforming the labour relations field ultimately triumphed, overtaking the MFJP's more limited vision of strategic employment litigation to assist the migrant farm worker community. The CIW did not implement its vision because it suddenly became a dominant player in the labour relations field, able to wield its power to compel other parties to agree to its demands. Nor did the CIW manage to influence state institutions to enact new laws, and therefore, utilize the coercive power of law to change the behaviour of parties on farms. Instead, the CIW had to employ a softer kind of power "to induce cooperation by appealing to and helping create shared meanings and collective identities."<sup>103</sup> One of the key ways in which the CIW was able to do this was by amassing "symbolic capital", a term Pierre Bourdieu used to describe the reputation and prestige of actors,<sup>104</sup> which it then deployed to convince other parties to follow its vision.

The CIW gained symbolic capital primarily through its anti-trafficking work. This provides a useful way to understand how an organization lacking in the usual accoutrements of power—wealth and connections to powerful actors—can nevertheless convince others to follow its path. Symbolic capital, like other forms of capital in Bourdieu's conception, can be gained and lost—it is a quantity that is accretive, relational, and above all else, persuasive. When the CIW was organizing work stoppages and hunger strikes in its early days, it did not possess much in the way of symbolic capital. However, its stature grew through its participation in trafficking prosecutions throughout the 1990s and 2000s. Part of the reason for this was that participation in formal state processes, like the court actions, conferred a measure of legitimacy and authority, which other actors began to notice. In recognition of the CIW's important role in the anti-trafficking field, it received numerous awards, including Germino being recognised by the US State Department as a "Trafficking in Persons Hero."<sup>105</sup> On the occasion of the CIW receiving the Robert F. Kennedy Memorial Centre for Human Rights Award in 2003, the *Palm Beach Post* observed that the award recognized the CIW's "growing national impact."<sup>106</sup> Simply put, the CIW's growing prestige was a key dynamic in how it managed to convince other labour relations actors to implement its vision of justice on farms. The extent to which the CIW's vision has taken hold today in the labour relations field is summed in a revealing quip made Gerardo Chavez, another founder of the CIW: "we are the new department of labour."<sup>107</sup>

#### IV. UNCOVERING THE ROLE OF LAW

The CIW's pursuit of improved working standards for Florida's tomato farm workers has primarily been a political struggle. Finding little support for new laws or better enforcement among state institutions, the CIW politically campaigned for a private regulatory system to govern working conditions. However, at key points in the CIW's struggle, the law proved to be a crucial resource. The

<sup>103</sup> Fligstein and McAdam, *A Theory of Fields*, 46 (n 18).

<sup>104</sup> See, especially, P Bourdieu, trans by R Terdiman, 'The Force of Law: Towards a Sociology of the Juridical Field' (1987) 38 *Hastings Law Journal* 805; and P Bourdieu, *The Logic of Practice*, trans Richard Nice (Stanford, Stanford University Press, 1980), Ch 7.

<sup>105</sup> Coalition of Immokalee Workers, *Slavery in the Fields and the Food We Eat*, ciw-online.org/wp-content/uploads/12SlaveryintheFields.pdf.

<sup>106</sup> D Moffett, 'Slavery? In Florida? In 2003? Yes', *The Palm Beach Post* (Palm Beach 23 November 2003).

<sup>107</sup> G Chavez in *Food Chains*, Documentary (2014) (directed by S Rawal).



above analysis has traced how the CIW participated in legal processes and drew on legal discourses in the various, overlapping fields in which it was involved. This is a story that often does not get told with respect to the CIW. This does not mean that the law accounts for all of the CIW's successes. Other factors were clearly in play. For example, it is no coincidence that the CIW's campaign for the FFP took flight at the same time that the anti-globalization movement started to focus attention on multinational corporations as sources of human rights abuse, "adbusting" began to heighten our awareness of the perils of unbridled consumption, and Naomi Klein's "No Logo"—perhaps the zeitgeist of the era—exhorted people to put away their credit cards and pick up placards instead.<sup>108</sup> However, we should not be too quick to ignore the role of law, even if it is only the symbolic and discursive power of the law that should concern us.

For the CIW, the law proved to be an important resource that it could use in its struggle for fair working conditions. Events in the anti-trafficking field, in which the CIW was a key participant, proved vital in several respects. At one level, the increased attention on anti-trafficking at the international and national levels was a political opportunity to which the CIW responded. But equally, the CIW shaped the direction of the anti-trafficking movement by pressuring the Department of Justice to prosecute crew leaders running forced labour operations. Here we have the deliberate cross-field manipulation that Gaston argues is so vital to how social movement actors affect change.<sup>109</sup> Law proved to be the tool that allowed this manipulation. In his seminal work on the pay equity campaigns of the 1970s and 1980s, Michael McCann attempted to lay bare the central role played by law.<sup>110</sup> He found that law "*was a complex repertoire of discursive strategies and symbolic frameworks that structure ongoing social intercourse and meaning-making activity among citizens.*"<sup>111</sup> We can begin to disaggregate how the CIW drew on the discursive and symbolic power of anti-trafficking laws to frame and give authority to its political campaigns.

First, the ongoing prosecutions of farm crew leaders in Florida throughout the 1990s and 2000s highlighted just how pervasive these practices were in agriculture. It also made clear the extent to which general labour conditions had deteriorated. For the CIW's friends and allies in the student and church movements, this evidence was too compelling to ignore, and as a result, the CIW could count on the support of a broad cross-section of the community to press its claims. It also provided the CIW with a cudgel with which to bludgeon the fast food companies and supermarkets, which claimed to deplore forced labour while reaping its benefits. The companies, of course, had pre-existing corporate codes of conduct that prohibited products made with slave labour, but the CIW's campaign posed a question that they could not ignore: can you prove that there is no forced labour in your supply chains?<sup>112</sup> The discursive and symbolic qualities of the law were crucial in raising public consciousness, mobilizing support for the CIW, and putting its targets on the back foot.

Second, the CIW's participation in the prosecutions conferred a measure of prestige on a grassroots organization that had previously enjoyed little clout, at least in the eyes of company decision-makers based in glass-panelled corporate headquarters many thousands of kilometres away. If law enforcement

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<sup>108</sup> N Klein, *No Logo* (New York, Picador, 2000)

<sup>109</sup> Gaston, 'Contention Across Social Fields' (n 18) .

<sup>110</sup> McCann, *Rights at Work* (n 28).

<sup>111</sup> *Ibid*, 282.

<sup>112</sup> Interview with Sean Sellers, Director of Strategic Partnerships, Worker-Driven Social Responsibility Network, Sarasota, Florida (15 February 2018).

agencies and government lawyers were engaged in dialogue with the CIW, how could corporate executives continue to evade and ignore the farm worker organization? Participation in legal processes also gave the CIW influence to convince state labour agencies and other farm worker advocates about the merits of the FFP. This has resulted in a remarkable situation in Florida currently where state institutions openly acknowledge that the agricultural sector is mistreating farm workers in contravention of the law but are happy for an under-resourced civil society actor to shoulder the burden of changing the situation.

It is necessary to sound a note of caution about drawing overly optimistic conclusions from the CIW story, which also has a bearing on the broader relationship between law and social movements. In the first instance, the law's malleability is a two-sided coin. While the law can be utilized strategically to achieve broadly progressive ends, it also can work in the other direction. For example, scholars have pointed out how anti-trafficking laws and discourses have been deployed to obscure violent forms of border enforcement,<sup>113</sup> the criminalization of sex work,<sup>114</sup> and even to support deeply problematic forms of international intervention.<sup>115</sup> Furthermore, the law in the CIW's story is not an innocent bystander—it has constructed the conditions that oppress farm workers. Listing the various laws that render farm workers vulnerable is beyond the scope of this chapter but suffice to say that immigration rules that permit certain forms of entry and bar others, judicial decisions that treat workers differently depending on their migration status, and legal exclusions of certain industries from labour law protections, all play a role. The foregoing does diminish the capacity of actors to draw strategically upon the law, but it should cause us to pause before simplistically extolling its virtues.

## V. CONCLUSION: LAW'S PROMISE?

In this chapter, I have provided a historical account of the CIW's emergence as a powerful actor in the Florida farming sector, emphasising the role of the law. This is important because at key moments, the CIW drew upon the symbolic and discursive power of anti-trafficking law to press its political claims for governing labour relations to better protect farm workers. However, the CIW did not only passively respond to the legal opportunities it found—it actively created and shaped those opportunities by encouraging US government authorities to take labour trafficking seriously and prosecute contractors engaging in this deplorable conduct. The CIW's story demonstrates that the law can be mobilized by workers in a variety of ways to envision and present political demands, and other labour organizations, both new and old, may be able to learn important lessons from it. As we have seen time and time again, those consigned to the margins often develop the tools for resistance that become propitious for others on a later day. The importance of understanding the precise relationship between new labour movements and the law cannot be overstated if we are to realize a world where labour has a fair stake.

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<sup>113</sup> See, eg, S Plambech, 'Between 'Victims' and 'Criminals': Rescue, Deportation, and Everyday Violence Among Nigerian Migrants' (2014) 21 *Social Politics* 382.

<sup>114</sup> See, eg, J Halley et al, 'The Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism' (2006) 29 *Harvard Journal of Law & Gender* 335.

<sup>115</sup> See, eg, P Kotiswaran, 'Beyond Sexual Humanitarianism: A Postcolonial Approach to Anti-Trafficking Law' (2014) 4 *UC Irvine Law Review* 353.

For labour law scholars, examining how new forms of labour associations are utilizing law in their struggle for better working conditions invites us to think about productive ways in which our discipline may be able to develop. Labour law was a concession granted to insurgent labour movements in the early 20<sup>th</sup> century, and the political compromise that ensued created a legal framework for employers and workers to bargain over how the benefits of economic production were to be distributed (and to a more limited way, production organized).<sup>116</sup> Unions and workers relied upon this legal framework to press their claims for better wages and conditions and gain more control over their working lives. The collapse of this system in particular sectors of the economy means that workers may need to look elsewhere to make meaningful improvements in their lives. It is not surprising that we have started to see the appearance of new forms of labour organization that draw upon alternative legal resources to promote workers' welfare. This invites labour law scholars to study more broadly the laws that labour movements rely upon, as well as their symbolic and discursive aspects. This chapter, which adopts a socio-legal lens to uncover how one particularly successful new labour organization used legal discourses and processes to achieve its ends, contributes in a modest way to this project.

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<sup>116</sup> See, eg, J Fudge and E Tucker, *Labour Before the Law: The Regulation of Workers' Collective Action in Canada, 1900-1948* (Oxford: Oxford University Press, 2001); K Klare, 'Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-1941' (1978) 62 *Minnesota Law Review* 265.

## Bibliography

- Asbed, G and Hitov, S, 'Preventing Forced Labor in Corporate Supply Chains: The Fair Food Program and Worker-Driven Social Responsibility' (2017) 52 *Wake Forest Law Review* 497.
- Amengual, M and Fine, J, 'Co-enforcing Labor Standards: The Unique Contribution of State and Worker Organizations in Argentina and the United States' (2017) 11 *Regulation & Governance* 129.
- Bales, K and Soodalter, R, *The Slave Next Door* (Berkeley, University of California Press, 2009).
- Barman, E, 'Varieties of Field Theory and the Sociology of the Non-Profit Sector' (2016) 10 *Sociology Compass* 442.
- Bartley, T and Child, C, 'Movements, Markets and Fields: The Effects of Anti-Sweatshop Campaigns on U.S. Firms, 1993-2000' (2011) 90 *Social Forces* 425.
- Bourdieu, P, trans by R Terdiman, 'The Force of Law: Towards a Sociology of the Juridical Field' (1987) 38 *Hastings Law Journal* 805.
- The Logic of Practice*, trans by Richard Nice (Stanford, Stanford University Press, 1980).
- Bourdieu, P and Wacquant, LJD, *An Invitation to Reflexive Sociology* (Chicago, University of Chicago Press, 1992).
- Bowe, J, 'Nobodies: Does Slavery Exist in America?', *The New Yorker* (New York 21 April 2003), [www.newyorker.com/magazine/2003/04/21/nobodies](http://www.newyorker.com/magazine/2003/04/21/nobodies).
- Brennan, D, 'Subjectivity of Coercion: Workers' Experiences with Trafficking in the United States' in P Kotiswaran, ed, *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery* (Cambridge, Cambridge University Press, 2017) 134.
- Broadway, B, 'Churches Back Boycotts Over Migrant Workers; Labor Unions Decry Treatment by Taco Bell, Mt. Olive Suppliers', *The Washington Post* (Washington DC 22 November 2003).
- Brudney, J, 'Decent Labour Standards in Corporate Supply Chains: The Immokalee Workers Model' in J Howe and R Owens, eds, *Temporary Labour Migration in the Global Era: The Regulatory Challenge* (Oxford, Hart Publishing, 2016) 351.
- Calhoun, C, 'Habitus, Field, and Capital: The Question of Historical Specificity' in C Calhoun, E LiPuma and M Postone, *Bourdieu: Critical Perspectives* (Chicago, University of Chicago Press, 1999) 61.
- Campbell, D, 'Taco's Tomato Pickers on Slave Wages', *The Guardian* (London 17 March 2003), [www.theguardian.com/world/2003/mar/17/usa.duncancampbell](http://www.theguardian.com/world/2003/mar/17/usa.duncancampbell).
- Chacón, JM, 'Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking' (2006) 74 *Fordham Law Review* 2977.
- Chapkis, C, 'Soft Glove, Punishing Fist: The Trafficking Victims Protection Act 2000' in E Bernstein and L Schaffner, eds, *Regulating Sex: The Politics of Intimacy and Identity* (New York, Routledge, 2005) 51.
- Crane, A, LeBaron, G, Allain, J, and Behbahani, L, "Governance Gaps in Eradicating Forced Labor: From Global to Domestic Supply Chains" (2017) *Regulation & Governance* (early access), <https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12162>.

- Dias-Abey, M, 'Justice on our Fields: Can 'Alt-Labor' Organizations Improve Migrant Farm Workers' Conditions' (2018) 53 *Harvard Civil Rights-Civil Liberties Law Review* 167.
- Dietz, M, Levitt, D and Love, E, 'Enforcement of Labor Standards' in M Reich, K Jacobs and M Dietz, eds, *When Mandates Work: Raising Labor Standards at the Local Level* (Berkeley, University of California Press, 2014) 229.
- Estabrook, E, *Tomatoland: How Modern Industrial Agriculture Destroyed Our Most Alluring Fruit* (Kansas City, Andrew McMeel Publishing, 2011) 111.
- Elliott, KA and Freeman, RB, 'White Hats or Don Quixotes? Human Rights Vigilantes in the Global Economy' in RB Freeman, J Hersch and L Mishel, eds, *Emerging Labor Market Institutions for the Twenty-First Century* (Chicago, The University of Chicago Press, 2005) 47.
- Engle Merry, S, *Human Rights & Gender Violence: Translating International Law into Local Justice* (Chicago, Chicago University Press, 2006), Ch5.
- Estlund, E, *Regoverning the Workplace: From Self-Regulation to Co-Regulation* (New Haven, Yale University Press, 2010).
- Falk Moore, S, 'Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study' (1973) 7 *Law & Society Review* 719.
- Fine, JR, 'New Forms to settle Old Scores: Updating the Worker Centre Story in the United States' (2011) 66 *Relations industrielles/ Industrial Relations* 604.
- Worker Centres: Organizing Communities at the Edge of a Dream* (Ithaca, ILR Press, 2006).
- Fligstein, N and D McAdam, *A Theory of Fields* (Oxford, Oxford University Press, 2012)
- Florida State University Center for the Advancement of Human Rights, *Florida Responds to Human Trafficking* (2003), 25, [www.northeastern.edu/humantrafficking/wp-content/uploads/Florida\\_Responds\\_to\\_Human\\_Trafficking.pdf](http://www.northeastern.edu/humantrafficking/wp-content/uploads/Florida_Responds_to_Human_Trafficking.pdf).
- Flyvbjerg, B, 'Five Misunderstandings About Case-Study Research' (2006) 12 *Qualitative Inquiry* 219.
- Food Chains*, Documentary (2014) (directed by S Rawal).
- Frymer, P *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton, Princeton University Press, 2007).
- Fudge, J and Tucker, E, *Labour Before the Law: The Regulation of Workers' Collective Action in Canada, 1900-1948* (Oxford: Oxford University Press, 2001).
- Gastón, P, 'Contention Across Social Fields: Manipulating the Boundaries of Labor Struggle in the Workplace, Community and Market' (2018) 65 *Social Problems* 231.
- Gereffi, G, Lee, J, and Christian, M, "US-Based Food and Agricultural Value Chains and Their Relevance to Healthy Diets" (2009) 4 *Journal of Hunger & Environmental Nutrition* 357.
- Gerring, J, 'What is the Case Study and What is it Good For?' (2004) 98 *American Political Science Review* 341.
- Gilbert, G, "The Coalition of Immokalee Workers Takes Aim at Wendy's", *In These Times* (Chicago 2 March 2015), [inthesetimes.com/working/entry/17701/coalition\\_of\\_immokalee\\_workers\\_wendys](http://inthesetimes.com/working/entry/17701/coalition_of_immokalee_workers_wendys).
- Greene, R, 'Advocates Don't Feel Labor Department is Ally', *The Miami Herald* (Miami 2 September 2003).

- Greenhouse, S, 'In Florida Tomato Fields, a Penny Buys Progress', *New York Times* (New York 24 April 2014), [www.nytimes.com/2014/04/25/business/in-florida-tomato-fields-a-penny-buys-progress.html](http://www.nytimes.com/2014/04/25/business/in-florida-tomato-fields-a-penny-buys-progress.html).
- Hahamovitch, C, *No Man's Land Jamaican Guestworkers in America and the Global History of Deportable Labor* (Princeton, Princeton University Press, 2011).
- Hall, S, 'Brave New World' (October 1988) *Marxism Today* 24.
- Halley, J, Kotiswaran, P, Shamir, H, and Thomas, C, 'The Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism' (2006) 29 *Harvard Journal of Law & Gender* 335.
- Hernandez, C, *Wage Theft in Florida: A Real Problem with Real Solutions* (Research Institute on Social and Economic Policy, 2010), [acwtff.files.wordpress.com/2012/09/fact-sheet-wt-report.pdf](http://acwtff.files.wordpress.com/2012/09/fact-sheet-wt-report.pdf).
- Ho, W, Zheng, T, Yildiz, H, and Talluri, S, 'Supply Chain Risk Management: A Literature Review' (2015) 53 *International Journal of Production Research* 5031.
- James Jr, H, Henrickson, M and Howard, P, 'Networks, Power and Dependency in the Agrifood Industry' in H James Jr, ed, *The Ethics and Economics of Agrifood Competition* (Dordrecht, Springer, 2013) 99.
- Klare, K, 'Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-1941' (1978) 62 *Minnesota Law Review* 265.
- Klein, K, *No Logo* (New York, Picador, 2000).
- Konefal, J, Bain, C, Mascarenhas, M, and Busch, L, 'Supermarkets and Supply Chains in North America' in D Burch and G Lawrence, eds, *Supermarkets and the Agrifood Supply Chains: Transformation in the Production and Consumption of Foods* (Cheltenham, Edward Elgar, 2007) 268.
- Kotiswaran, P, 'Beyond Sexual Humanitarianism: A Postcolonial Approach to Anti-Trafficking Law' (2014) 4 *UC Irvine Law Review* 353.
- Linder, M, 'Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal' (1986-7) 65 *Texas Law Review* 1335.
- Lichtenstein, N, *The Retail Revolution: How Wal-Mart Created a Brave New World of Business* (New York, Metropolitan Books, 2009), Ch 5.
- Lo, J and Jacobson, A, 'Human Rights from Field to Fork: Improving Labor Conditions for Food-Sector Workers by Organizing Across Boundaries' (2011) 5 *Race/Ethnicity: Multidisciplinary Global Contexts* 61.
- Maidenberg, M, 'Florida Employers Guilty of Slavery', *LaborNotes* (31 July 2002), [www.labornotes.org/2002/07/florida-employers-guilty-slavery](http://www.labornotes.org/2002/07/florida-employers-guilty-slavery).
- Marquis, SL, *I Am Not a Tractor! How Florida Farmworkers Took on the Fast Food Giants and Won* (Ithaca, ILR Press, 2017).
- Martin, JL, 'What is Field Theory?' (2003) 109 *American Journal of Sociology* 1.
- Maxwell, B, 'Slavery Alive in Florida's Agricultural Industry', *St Petersburg Times* (St Petersburg 3 July 2002).
- McAlevy, JF, *No Shortcuts: Organizing for Power in the New Gilded Age* (Oxford, Oxford University Press, 2016).
- McCann, M, *Rights at Work: Pay Equity and the Politics of Legal Mobilization* (Chicago, University of Chicago Press, 1994).

- Milkman, R, Bloom, J, Harro, V, eds, *Working for Justice: The L.A. Model of Organizing and Advocacy* (Ithaca, ILR Press, 2010).
- Milkman, R and Ott, E, eds, *New Labor and New York: Precarious Workers and the New Labor Movement* (Ithaca, ILR Press, 2014).
- Moffett, D, 'Slavery? In Florida? In 2003? Yes', *The Palm Beach Post* (Palm Beach 23 November 2003).
- Morton, B, *To Serve God and Wal-Mart: The Making of Christian Free Enterprise* (Cambridge, Harvard University Press, 2009).
- Oxfam America, *Like Machines in the Field: Workers Without Rights in American Agriculture* (March 2004), 28, [www.oxfamamerica.org/static/media/files/like-machines-in-the-fields.pdf](http://www.oxfamamerica.org/static/media/files/like-machines-in-the-fields.pdf).
- Plambech, S, 'Between 'Victims' and 'Criminals': Rescue, Deportation, and Everyday Violence Among Nigerian Migrants' (2014) 21 *Social Politics* 382.
- Rosado Marzán, CF, 'Worker Centers and the Moral Economy: Disrupting Through Brokerage, Prestige, and Moral Framing' (2018) *University of Chicago Legal Forum* Art 16.
- Rosenberg, GN, *The Hollow Hope: Can Courts Bring About Social Change?*, 2nd ed (Chicago, University of Chicago Press, 2008).
- Scheingold, SA, *The Politics of Rights*, 2nd ed (Ann Arbor, University of Michigan Press, 2004).
- Schlosser, E, *Fast Food Nation: The Dark Side of the All-American Dream* (Boston, Houghton Mifflin Company, 2001), 245-9.
- 'A Side Order of Human Rights', *New York Times* (New York 6 April 2005), [www.nytimes.com/2005/04/06/opinion/a-side-order-of-human-rights.html](http://www.nytimes.com/2005/04/06/opinion/a-side-order-of-human-rights.html).
- Sellers, S and Asbed, G, 'The History and Evolution of Forced Labor in Florida Agriculture' (2011) 5 *Race/Ethnicity: Multidisciplinary Global Contexts* 29.
- Sharma, N, 'Anti-Trafficking Rhetoric and the Making of Global Apartheid' (2005) 17 *NWSA Journal* 88.
- Shamir, H, 'A Labor Paradigm for Human Trafficking' (2012) 60 *UCLA Law Review* 76.
- Shemkus, S, 'Beyond Cheap Labor: Can Prison Work Programs Benefit Inmates?', *The Guardian* (London 9 December 2015), [www.theguardian.com/sustainable-business/2015/dec/09/prison-work-program-ohsa-whole-foods-inmate-labor-incarceration](http://www.theguardian.com/sustainable-business/2015/dec/09/prison-work-program-ohsa-whole-foods-inmate-labor-incarceration).
- Skate, RE, *The Art of Case Study Research* (Thousand Oaks, SAGE, 1995).
- Snow, DA, Rochford, EB, Worden, SK, and Benford, RD, 'Frame Alignment Processes, Micromobilization, and Movement Participation' (1986) 51 *American Sociological Review* 464.
- Sturgeon, J, 'Organic Groceries Go Discount as Walmart Canada Rolls Out New Label', *Global News* (Toronto 15 December 2015), [globalnews.ca/news/2404387/organic-groceries-go-discount-as-walmart-canada-rolls-out-new-label/](http://globalnews.ca/news/2404387/organic-groceries-go-discount-as-walmart-canada-rolls-out-new-label/).
- Tarrow, S, *Power in Movements*, 3rd ed (Cambridge, Cambridge University Press, 2011).
- Tattersall, A, *Power in Coalitions: Strategies for Strong Unions and Social Change* (Ithaca, ILR Press, 2010).
- Tomlins, CL, *The State and Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960* (Cambridge, Cambridge University Press, 1985).

Will appear in Alysia Blackham, Miriam Kullmann, and Ania Zbyszewska, eds., *Theorizing Labour Law in a Changing World: Towards an Inclusive Labour Law* (Oxford: Hart Publishing, forthcoming)

Voss, K and Sherman, R, 'Breaking the Iron Law of Oligarchy: Union Revitalization in the American Labor Movement' (2000) 106 *American Journal of Sociology* 303.

Woodman, S, 'Florida Has Not Held an Employer Responsible for Violating the Minimum Wage Since 2011', *The Nation* (New York 11 July 2016), [www.thenation.com/article/florida-has-not-held-an-employer-responsible-for-violating-the-minimum-wage-since-2011/](http://www.thenation.com/article/florida-has-not-held-an-employer-responsible-for-violating-the-minimum-wage-since-2011/).